

United States District Court
District of Massachusetts

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United States

v.

Silvestre Lizardi, et al.,
defendants.

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04-MJ-01685-CBS

Defendant's Motion to Modify Conditions of Release

The defendant Silvestre Lizardi ("Lizardi") hereby moves that this Court modify the conditions of his pretrial release by: 1) permitting him to move his residence to 240 Broadway, Apt B2, Lynn, MA 01904; and 2) vacating the requirement that he be subjected to a monitored curfew.

As grounds therefor, the defendant avers the following:

1. On February 27, 2004, the defendant was charged in a sealed complaint with conspiracy to possess cocaine with intent to distribute.
2. On June 7, 2004, after probable cause was found and a detention hearing held, this Court issued an Order releasing the defendant on \$15,000 cash bond and on a number of conditions, including: that he report as

directed to Pretrial Services; that he maintain or actively seek employment; that he surrender his passport and restrict his travel to Massachusetts; that he submit to drug testing; that he abide by a 9:00 p.m. to 6:00 a.m. curfew; and that he maintain his residence at 8 Norcross Terrace, Lynn, MA.

3. Since then, Lizardi has abided by these conditions, including maintaining his residence with his in-laws at 8 Norcross Terrace and obeying the nighttime curfew.

4. Recently, Lizardi's wife Keila found a new less-cramped residence for Lizardi, herself, and their baby daughter at 240 Broadway, Apt B2, Lynn, MA 01904. Pursuant to the lease signed by Keila Lizardi, their right to tenancy at the 240 Broadway property is slated to begin Friday, October 15, 2004. The new telephone number at the 240 Broadway residence will be: 781-599-0218.

5. Lizardi, who has continued working at his old job during the daytime as an autoglass technician, has also abided by the 6:00 to 9:00 a.m. curfew. Pretrial Services has followed its standard practice of monitoring the curfew by making intermittent, random, telephone calls throughout the night, to Lizardi's home phone number. These phone calls, however, have made it difficult for Lizardi and his wife to get a full night's sleep and have not

infrequently awakened their baby daughter.

6. On October 12, 2004, undersigned counsel spoke with Lizardi's Pretrial Services Officer David Picozzi who confirmed that Lizardi has been "***one hundred percent compliant***" with the conditions of his pretrial release. Mr. Picozzi also indicated that he has no objection to Lizardi's proposed move to 240 Broadway and has no objection to the lifting of the curfew if the United States Attorney and this Court deem that to be appropriate.

7. On October 14, 2004, undersigned counsel spoke with Assistant United States Attorney Robert Peabody who also stated that he has no objection to Lizardi's proposed move to 240 Broadway in Lynn nor did he have any objection to the lifting of the nighttime curfew.

Wherefore, the defendant Silverstre Lizardi requests that this Court modify the conditions of his release by permitting him to move from 8 Norcross Terrace to 240 Broadway in Lynn, and by vacating the curfew requirement.

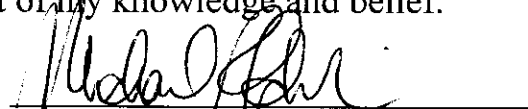
Silvestre Lizardi
By his attorney,



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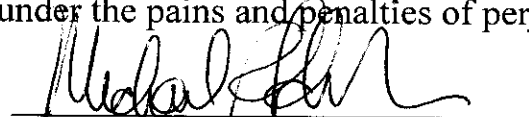
Verification

I, Michael R. Schneider, hereby verify that the factual assertions above are true and accurate to the best of my knowledge and belief.


Michael R. Schneider

Certificate of Service

I, Michael R. Schneider, hereby certify that earlier today, I served on Robert Peabody, Assistant United States Attorney, United State's Attorney's Office, 1 Courthouse Way, Suite 2300, Boston, MA 02210, a true and accurate copy of the foregoing document by facsimile and by U.S. first class mail, postage prepaid. Signed under the pains and penalties of perjury.


Michael R. Schneider

Dated: October 14, 2004